FILE COPY

IN THE

Supreme Court of the United States

OCTOBER TERM, 1958

No. 27

THE FIRST NATIONAL CITY BANK OF NEW YORK,
Petitioner,

v.

WHITNEY GRISWOLD, PEARL CARTER PACE and HENRY J. CLAY, constituting the Foreign Claims Settlement Commission of the United States, and ROBERT B. ANDERSON, as Secretary of the Treasury of the United States of America,
Respondents.

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

F. GLOYD AWALT
W. V. T. JUSTIS
822 Connecticut Avenue, N.W.
Washington 6, D.C.
JOHN A. WILSON
M. VAN VOORHIES
20 Exchange Place
New York 5, N. Y.
Counsel for Petitioner

SHEARMAN & STERLING & WRIGHT
20 Exchange Place
New York 5, N. Y.
Of Counsel

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TO THE HONORABLE, THE CHIEF JUSTICE AND THE ASSOCIATE JUSTICES OF THE SUPREME COURT OF THE UNITED STATES:

Your petitioner, The First National City Bank of New York, respectfully requests that a writ of certiorari issue to review the judgment of the United States Court of Appeals for the District of Columbia Circuit, entered in the above entitled case on June 12, 1958, which affirmed the judgment of the District Court for the District of Columbia.

Opinions Below

The opinion of the Court of Appeals is not yet officially reported but is printed in the record (R. 164-171), and also as Appendix A to this petition.

The opinion of the District Court is not officially reported but is printed in the record (R. 152-4).

Jurisdiction

The judgment of the Court of Appeals, printed as Appendix B to this petition, was entered on June 12, 1958 (R. 172). The jurisdiction of this Court is invoked under 28 USC § 1254(1).

The District Court had jurisdiction of the action under 28 USC § § 1331, 2201, and 5 USC § 1009.

Questions Presented

The questions presented are as follows:

1. Where the Foreign Claims Settlement Commission has erroneously interpreted the jurisdiction conferred upon it by Congress and has refused to consider petitioner's claim on the merits solely by reason of that misinterpretation, and has thus deprived petitioner of its constitutional right to due process under the Fifth Amendment: — does not the United States District Court have the power and the duty to intervene to declare the true jurisdiction of the Commission and to direct the Commission to determine petitioner's claim on the merits, despite the nonreviewability provisions of the governing statute?

2. Since petitioner's claim is based upon an attachment-judgment lien, adjudicated under the laws of New York against the New York funds of a Russian corporation, now part of the Soviet Claims Fund, and since petitioner has been at all times the full beneficial owner of said lien, and holder of the full legal title as well prior to the Litvinov Assignment: — is not such denial of petitioner's claim, with resultant deprivation of petitioner's vested property rights, a violation of petitioner's constitutional right to just compensation under the Fifth Amendment, requiring corrective judicial intervention?

3. Did Congress intend that the nonreviewability provision of the governing statute, should confer upon the Commission exclusive power to determine, for itself, the extent of the jurisdiction conferred upon it by the statute, and the power to deny constitutional rights; and if Congress did so intend, does not the nonreviewability provision violate the Fifth Amendment and the judiciary clause, Art. III, Section 2, of the United States Constitution?

Statutes and Executive Agreement Involved

There are printed in Appendix C to this petition: (1) The pertinent provisions of the International Claims Settlement Act of 1949, as amended in 1955, to provide for attachment-judgment lien claims of United States nationals against funds of Russian nationals, and for claims of United States nationals against the Soviet Union; (2) Section 10 of the Administrative Procedure Act; (3) the Litvinov Assignment of November 16, 1933; and (4) New York Civil Practice Act (1932), § 210.